

Panaji, 6th August, 2009 (Sravana 15, 1931)

SERIES I No. 19

OFFICIAL GAZETTE

GOVERNMENT OF GOA

NOTE

There is one Extraordinary issue to the Official Gazette, Series I No. 18 dated 30-7-2009 namely, Extraordinary dated 31-7-2009 from pages 1871 to 1872 regarding Corrigendum from Department of Transport (Directorate of Transport).

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Goa Legislature Secretariat

The Goa Agricultural Tenancy
(Amendment) Bill, 2009

(Bill No. 13 of 2009)

LA/LEGN/2009/1363

A

BILL

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2009 is hereby published for general information in pursuance of Rule - 138 of the Rule of Procedure and Conduct of Business of the Goa Legislative Assembly.

to further amend the Agricultural Tenancy (Amendment) Act, 1976.

Be it enacted by the Legislative Assembly of Goa in the Sixtieth Year of the Republic of India, as follows:—

1. *Short title.*— (1) This Bill may be called the Agricultural Tenancy (Amendment) Bill, 2009.

(2) It shall extend to the whole of Goa.

(3) It shall come into force at once.

2. *Amendment to section 49.*— After section 49(1) of the Agricultural Tenancy Act, 1964, the following shall be added as follows:—

“Explanation:— For the purpose of this section “interim order” shall not include injunction order and such orders shall be subject to appeal and revision.”

Statement of Objects and Reasons

Due to this vital and very crucial provision being absent in the Goa, Daman and Diu Agricultural Tenancy Act, 1964 the parties, specially the tenants have been put to enormous difficulties because the provision for preferring a revision application under the section 50(1) is very limited and once the Collector/Deputy Collector exercises that power, one way or the other in the revision application (first revision application) preferred to him, there is no right to an aggrieved party to prefer a second revision application before the Administrative Tribunal under section 50(2) as is held by the Administrative Tribunal in number of second revision applications preferred before it and dismissed the same at the admission stage itself based on the judgments of the High Court and the Supreme Court.

This Bill seeks to rectify the above deficiency.

Financial Memorandum

No financial implication is envisaged.

Memorandum of Delegated Legislation

No Delegated Legislation is envisaged.

Porvorim, Goa. DAYANAND G. NARVEKAR
27th July, 2009. MLA

Porvorim-Goa. J. N. BRAGANZA
27th July, 2009. Secretary

(Annexure to Bill No. 13 of 2009)

The Goa Agricultural Tenancy (Amendment) Bill, 2009

49. *Appeals.*— (1) From every order ²[including an order passed under chapter II-A] other than an interim order passed by the Mamlatdar ³[or The Tribunal] under this Act, an appeal shall lie to the Collector and the orders of the Collector on such appeal shall be final, subject to revision, if any, by ⁴[the Administrative Tribunal.]

⁵[...]

(2) From every original order other than an interim order ⁶[...] passed by the Collector ⁷[...] and appeal shall lie to the ³ Administrative Tribunal and the orders of ⁸[Administrative Tribunal] on such appeal shall be final.*

Porvorim-Goa.
27th July, 2009.

J. N. BRAGANZA
Secretary

LA/LEGN/2009/1364

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2009 is hereby published for general information in pursuance of Rule - 138 of the Rule of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Salary, Allowances and Pension of Members of the Legislative Assembly (Third Amendment) Bill, 2009

(Bill No. 16 of 2009)

A

BILL

further to amend the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Act, 2004 (Act 20 of 2004).

Be it enacted by the Legislative Assembly of the State of Goa in the Sixtieth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Salary, Allowances and Pension of Members of the Legislative Assembly (Third Amendment) Act, 2009.

(2) It shall be deemed to have come into force on the 1st day of April, 2009.

2. *Amendment of section 3.*— In section 3 of the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Act, 2004 (Goa Act 20 of 2004) (hereinafter referred to as the “principal Act”),—

(i) in sub-section (1), for the expression “seven hundred and fifty rupees”, the expression “one thousand rupees” shall be substituted;

(ii) in sub-section (2), for the expression “Rs. 300/- (Rupees three hundred only)”, the expression “Rs.750/- (Rupees seven hundred and fifty only)” shall be substituted.

3. *Amendment of section 6.*— In section 6 of the principal Act, in sub-section (1), for the letters, figures and word “Rs. 12 lakhs”, the letters, figures and word “Rs. 30 lakhs” shall be substituted.

4. *Amendment of section 9.*— In section 9 of the principal Act, for the words “twenty six thousand rupees”, the words “fifty five thousand rupees” shall be substituted.

5. *Amendment of section 11.*— In section 11 of the principal Act, in sub-section (1),—

(i) for the words “rupees five thousand”, the words “rupees eight thousand” shall be substituted;

(ii) for the words “one thousand rupees”, the words “one thousand and two hundred fifty rupees” shall be substituted;

(iii) for the words “rupees twenty seven thousand”, the words “rupees fifty thousand” shall be substituted.

6. *Amendment of section 19.*— In section 19 of the principal Act, for the expression “Rs. 18,000/- (Rupees eighteen thousand only)”, the expression “Rs. 32,000/- (Rupees thirty two thousand only)” shall be substituted.

Statement of Objects and Reasons

The State of Goa is a unique State in size as in its population. It is also well known as a touristic spot. The cost of living in the State of Goa is considerably higher compared to neighbouring States and hence, it is proposed to amend section 3 of the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Act, 2004 (Goa Act 20 of 2004) (hereinafter referred to as the “said Act”), so as to increase daily allowance from rupees seven hundred and fifty rupees to rupees one thousand, for each day during any period on duty. Further, the timings of the sittings of the Assembly are now changed to 11.30 a.m. to 7.00 p.m. instead of 2.30 p.m. to 7.00 p.m., the amount payable to a member in lieu of accommodation provided to him is proposed to be increased from rupees three hundred to rupees seven hundred and fifty. The Government is also not in a position to provide suitable accommodations to all the Members of the Legislative Assembly, and hence a provision is made for allowing advance of a sum of Rs. 12 lakhs as a housing advance, repayable within a maximum period of ten years for construction of a house or a bungalow or for acquiring a flat, under section 6 of the said Act. Considering rise in prices of lands and of construction materials and other items, it is proposed to enhance the housing advance upto Rs. 30 lakhs by amending said section 6 of the said Act.

As a Member of the Legislative Assembly has to move within his constituency for purpose of listening to grievances of people and also to examine the work done in his constituency, etc., the sum of constituency

allowances under section 9 of the said Act, viz. Rs. 26,000/- is not commensurate with travelling expenses incurred thereof considering the level of inflation. Hence, it is proposed to enhance constituency allowance to the tune of Rs. 55,000/- by amending said section 9 of the said Act.

In terms of section 11 of the said Act, a member is entitled to pension of rupees five thousand per mensem for the first year and one thousand rupees per month for every successive year of membership in the Assembly subject to a maximum of rupees twenty seven thousand per month. Due to inflation, it is found necessary and expedient, to enhance the amount of pension to rupees eight thousand for the first year and one thousand and two hundred fifty rupees per month for every successive year of membership in the Assembly subject to a maximum of rupees fifty thousand per month. Accordingly, the Bill seeks to amend section 11 of the said Act.

As per section 19 of the said Act, a Member of the Legislative Assembly is allowed to appoint not more than four persons as personal assistants subject to monitory limit of Rs. 18,000/- per month. In view of implementation of the Sixth Pay Commission, the salary of the Government employees has been considerably enhanced, as per recommendation of the Sixth Pay Commission. Hence, it is proposed to amend section 19 of the said Act to enhance the said amount from Rs. 18,000/- to Rs. 32,000/-.

This Bill seeks to achieve the above objects.

Financial Memorandum

The proposed amendments to sections 3, 6, 9, 11 and 19 of the Act, entail additional financial implication to the tune of Rs. 5,81,00,000/-.

Memorandum Regarding Delegated Legislation

No delegated legislation is involved in this Bill.

Porvorim – Goa. DIGAMBAR KAMAT
30th July, 2009. Chief Minister/Minister for Law,
Judiciary and Legislative Affairs.

Assembly Hall, J. N. BRAGANZA
Porvorim – Goa. Secretary to the Legislative
30th July, 2009. Assembly of Goa.

Governor's Recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, S. S. Sidhu, Governor of Goa, hereby recommend the introduction and consideration of the Goa Salary, Allowances and Pension of Members of the Legislative Assembly (Third Amendment) Bill, 2009, by the Legislative Assembly of Goa.

ANNEXURE

.....
**Extract of sections 3, 6, 9, 11 and 19 of the
Goa Salary, Allowances and Pension of
Members of the Legislative Assembly
Act, 2004
(Act No. 20 of 2004)**
.....

3. *Salaries and daily allowances.*— (1) A member shall be entitled to receive salary at the rate of five thousand rupees per month during his term of office and shall also be entitled to receive daily allowances at the rate of seven hundred and fifty rupees for each day during any period on duty.

Explanation.— Daily allowance shall be admissible to a member for each day on duty irrespective of the time of his arrival or departure.

(2) A member shall be entitled for an amount of Rs. 300/- (Rupees three hundred only), for each day on duty in lieu of the accommodation provided under section 13.

6. *Housing advance*.— (1) Subject to the provisions of this Act, a member may, during his term of office, be sanctioned a housing advance of upto a maximum of Rs. 12 lakhs, repayable within a maximum period of ten years on such installments and interest as may be fixed by the Speaker, for construction of a house or a bungalow or for acquiring a flat, for residential purpose and such housing advance can be availed of by a member only once during his life time.

(2) The terms and conditions for the grant of housing advance under sub-section (1) shall be as prescribed and the recovery of the advance shall be made from the salary and pension of the member in the manner prescribed.

(3) Notwithstanding anything contained in sub-section (1), a member may be allowed to use out of the advance sanctioned to him under this section, for the purpose of repaying any existing loan availed of by a Member from any Bank or financial institution for the purpose of housing to full extent or for the purpose of carrying out repairs of his house to the extent of 50% of the limit.

(4) A house, bungalow, etc. constructed or a flat acquired with the advance granted under this section shall be mortgaged to the Government by means of a registered deed of mortgage in the manner prescribed and the member shall have no right to sell, mortgage, assign, transfer or alienate in any manner whatsoever such house, bungalow, flat, etc. until the entire advance granted under this section is repaid by the member and such mortgage to the Government shall have priority over all other dues.

9. *Constituency allowance*.— Notwithstanding anything contained in any other law for the time being in force, there shall be paid to each member a constituency allowance at the rate of twenty six thousand rupees per every calendar month or a part thereof, during the term of the Assembly.

11. *Pension*.— (1) Subject to the other provisions of this Act, with effect from the 1st day of July, 2004, there shall be paid to every person who has been a member, a pension of rupees five thousand per mensem for the first year and one thousand rupees per month for every successive year of his membership in the Assembly subject to a maximum

of rupees twenty seven thousand per month and while reckoning the period of one year, days exceeding 180 days in a calendar year shall be counted as one year:

Provided that the members of the First Legislative Assembly, the members nominated to the Second Legislative Assembly and the members of the Sixth Legislative Assembly elected from the constituencies of Daman and Diu, of the then Union Territory of Goa, Daman and Diu, and who have served as such members for a period which falls short of five years, shall be deemed to have completed a term of five years and be paid pension accordingly:

Provided further that pension shall also be paid to the members nominated to the Sixth Legislative Assembly:

Provided also that the said members of the Sixth Legislative Assembly elected from the constituencies of Daman and Diu shall not draw the pension as long as they serve as Councillors of the Union Territory of Daman and Diu:

Provided also that after the death of the person as aforesaid, the pension shall be payable to his widow or her widower, as the case may be, as long as she or he does not remarry and after the death of the widow or widower, as the case may be, the pension shall be payable to the dependent family members of the person as aforesaid till they attain the age of 25 years and to unmarried dependent daughter till she gets married or till her death, whichever is earlier, and such pension shall be payable subject to the provisions in the succeeding sub-sections of this section and the other provisions of this Act.

(2) The pension payable to a person under sub-section (1), in case there be any outstanding amount or loan or any facilities availed under this Act, it shall be first adjusted towards repayment of such outstanding amount or loan or any facility availed of, including interest payable thereon, till such entire outstanding amount or loan or facility is cleared.

(3) Where any person entitled to pension under sub-section (1)—

(i) is elected to the office of the President or Vice-President or is appointed to the office of the Governor of any State or the Administrator of any Union Territory; or

(ii) becomes a member of the Council of States or the House of the People or any Legislative Assembly of a State or Union Territory or any Legislative Council of a State; or

(iii) is employed on a salary under the Central Government, or any State Government or any Corporation owned or controlled by the Central Government or by any State Government or any local authority or becomes otherwise entitled to any remuneration from such Government, Corporation or local authority, such person shall not be entitled to any pension under sub-section (1) for the period during which he continues to hold such office or as such member, or is so employed, or continues to be entitled to such remuneration:

Provided that where the salary payable to such person for holding such office or being such member or so employed or whom the remuneration referred to in clause (iii) payable to such person is, in either case, less than the pension payable to him under sub-section (1), such person shall be entitled only to receive the balance as pension under that sub-section.

(4) Where any person entitled to pension under sub-section (1) is also entitled to any pension from the Central Government or any State Government, or any Corporation owned or controlled by the Central Government or any State Government, or any local authority under any law or otherwise, then,—

(a) where the amount of pension to which he is entitled under such law or otherwise, is equal to or in excess of that to which he is entitled under sub-section (1), such person shall not be entitled to any pension under that sub-section; and

(b) where the amount of pension to which he is entitled under such law or otherwise, is less than that to which he is entitled under sub-section (1), such person shall be entitled to pension under that sub-section only of an amount which falls short of the amount of pension to which he is otherwise entitled under that sub-section:

Provided that any pension (whether known as Swantantra Sainik Samman pension or by any other name) received by such pensioner as a

freedom fighter or any pension received by such pensioner as a teacher in an aided educational institution shall not be taken into account for the purpose of this sub-section and such person shall be entitled to receive such pension in addition to the pension to which he is entitled under sub-section (1).

(5) In computing the number of years for the purpose of sub-section (1), the period during which a person has served as a Minister as defined in the Goa Salaries and Allowances of Ministers Act, 1964 (Act 3 of 1965) or as a Speaker or Deputy Speaker as defined in the Goa Salaries and Allowances of the Speaker and Deputy Speaker Act, 1964 (Act 4 of 1965) shall also be taken into account.

19. *Personal assistants.*— Subject to the provisions of the rules made in this behalf, a member may appoint not more than four persons possessing such qualifications and on such terms and conditions as may be prescribed, as his personal assistants and the total remuneration payable to all such personal assistants shall not exceed Rs. 18,000/- (Rupees eighteen thousand only) per month:

Provided that in case a member engages the services of a serving Government employee as his personal assistant then the total remuneration of Rs. 18,000/- (Rupees eighteen thousand only) shall be reduced by an amount equivalent to the basic salary drawn by such Government employee at the time of his engagement as personal assistant.

Assembly Hall,
Porvorim – Goa.
30th July, 2009.

J. N. BRAGANZA
Secretary to the Legislative
Assembly of Goa.

LA/LEGN/2009/1365

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2009 is hereby published for general information in pursuance of Rule - 138 of the Rule of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Agricultural Tenancy (Amendment) Bill, 2009

(Bill No. 19 of 2009)

A

BILL

further to amend the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act No. 7 of 1964).

Be it enacted by the Legislative Assembly of the State of Goa in the Sixtieth Year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Agricultural Tenancy (Amendment) Act, 2009.

(2) It shall come into force at once.

2. *Amendment of Title.*— In the title, “The Goa, Daman & Diu Agricultural Tenancy Act, 1964 (Act No. 7 of 1964)” (hereinafter referred to as the “principal Act”), the figure and words “Daman & Diu” shall be deleted.

3. *Amendment of Section 1.*— In Section 1 of the principal Act, in sub-section (1), the figure and words “Daman & Diu” shall be omitted.

4. *Amendment of Section 2.*— In Section 2 of the principal Act, (i) for clause (8) the following clause shall be substituted, viz.

“(8) Government “means” the Government of Goa;

(ii) in clause (17), the figure and words “Daman & Diu” shall be omitted.

5. *Amendment of Section 18.*— In Section 18 of the principal Act, in sub-section (4), for the words “by the Collector”, the words “by the Administrative Tribunal” shall be substituted.

6. *Amendment of Section 18J.*— In Section 18J of the principal Act,—

(i) in sub-section (2), in item (ii)(d), for the expression “the Maharashtra Co-operative Society Act, 1960, as in force in the Union Territory of Goa, Daman & Diu”, the expression “the Goa Co-operative Society Act, 2001 (Goa Act 36 of 2001) or Societies deemed to be registered thereunder” shall be substituted.

(ii) after sub-section (2) the following sub-section shall be inserted, viz.

“(2A) Notwithstanding anything contained in any law to the contrary, Order or decree or judgement of any Court, any land disposed by the Mamlatdar by sale to any person or to a Co-operative Society under sub-section (2)”. Such person or Cooperative Society, as the case may be, shall use land so purchased or allow its use for no purpose, other than agriculture”.

7. *Amendment of section 18K.*— For section 18K of the principal Act, the following section shall be substituted:—

“18K.— Notwithstanding anything contained in law to the contrary, or in any agreement, usage, court order, decree or judgement, no land purchased by a tenant under this chapter, shall be transferred by sale, gift, exchange, mortgage, lease, assignment or obtain sanction for non-agricultural purpose, without previous sanction of the Mamlatdar”.

Provided that no such sanction shall be necessary where the land is to be mortgaged in favour of the Government or a co-operative society for the purpose of a loan for effecting any improvement of such land or for co-operative farming.”

8. *Amendment of section 42A.*— In section 42A of the principal Act, after sub-section (3), in *Explanation*, for the word “include”, the words “deemed purchaser and” shall be inserted.

9. *Amendment of section 49.*— For section 49 of the principal Act, the following sections shall be substituted, namely:—

“49. *Appeals.*— from every Order including an Order passed under Chapter IIA other than an Interim Order passed by the Mamlatdar or the Tribunal under this Act, an appeal shall lie to the Administrative Tribunal and the Orders of the Administrative Tribunal on such appeal, shall be final”.

Explanation:— For the purpose of this section, an interim Order shall not include an order passed under sub-section (3) of section 8A of this Act.

10. *Insertion of new section 49A.*— After section 49 of the principal Act, the following section shall be inserted viz.—

“49A. *Review.*— The Administrative Tribunal, on application of any party, may review its own order and in reference thereto pass such orders as it deems fit”.

Provided that no such application shall be entertained unless the Administrative Tribunal is satisfied that there has been discovery of new or important matter or evidence which after exercise of due diligence was not within the knowledge of the applicant and could not be produced by him at the time of when the order was made or on account of some mistake or error apparent on the face of the record or for any other sufficient reason:

Provided further that no such Order shall be made under this sub-section, unless a notice has been given to all interested parties and they have been afforded a reasonable opportunity of being heard.

11. *Amendment of section 50.*— In section 50 of the principal Act,—

(1) in sub-section (1),—

(a) for the word “Collector may on his”, the words “Administrative Tribunal may on its” shall be substituted.

(b) for the word “himself”, the word “itself” shall be substituted.

(2) In sub-section (2), the expression “other than an interim order of the Collector”, shall be omitted and for the word “Collector” wherever it occurs, the word “Mamlatdar”, shall be substituted.

12. *Amendment of section 51.*— In sub-section (1) of section 51 of the principal Act, the words “Collector or the” shall be omitted.

13. *Amendment of section 52.*— (a) In section 52 of the principal Act,—

(i) after the words “application for revision”, wherever occur in sub-section (1), the words “or review” shall be inserted.

(ii) for the word “Collector”, the words “Administrative Tribunal” shall be substituted.

(b) in sub-section (2), after the word “Tribunal”, the figure and word, “Collector” shall be omitted.

14. *Amendment of section 53.*— In section 53 of the principal Act,—

(a) In sub-section (1),—

(i) for the words “or the Collector”, the words “or the Administrative Tribunal” shall be substituted.

(ii) for the words “in revision by the Collector”, the words “in revision or review by the Administrative Tribunal” shall be substituted.

(b) In sub-section (3), for the words “and the Collector”, the words “and the Administrative Tribunal” shall be substituted.

15. *Amendment of section 58.*— In section 58 of the principal Act, in sub-section (2), for the words “Collector or Government”, the words “Administrative Tribunal” shall be substituted.

16. *Amendment of section 58A.*— In section 58A of the principal Act,— for the words “the Collector” wherever they occur, the words, “the Administrative Tribunal” shall be substituted.

17. *Amendment of section 59.*— In section 59 of the principal Act, the figure and words “Tribunal and Collectors”, shall be omitted.

18. *Insertion of new section.*— After section 60B of the principal Act, the following section shall be inserted, namely:—

“60C.— *Act not to apply to pending proceedings.*— The provisions of the Goa Agricultural Tenancy (Amendment) Act, 2009, shall not apply to the proceedings pending before the Collector or the Administrative Tribunal, as the case may be, on and from the date of enforcement of this Amendment Act, 2009”.

Statement of objects and reasons

An amendment was required to be carried out to the Agricultural Tenancy Act with a view to remove the provisions of Appeals which lie before the Collector and the provisions should be made so that such Appeal would lie before the Administrative Tribunal, in order to do away with the pendency of matters before the Collectors/Dy. Collectors.

The matter has been examined in the light of the Agricultural Tenancy Act by virtue of Section 49 of the Goa, Daman & Diu Agricultural Tenancy Act, 1964 from every Order including an Order passed under Chapter IIA i.e. Fifth Agricultural Tenancy Act, 1976, other than Interim Order passed by the Mamlatdar, or the Tribunal under the Act, an Appeal would lie to the Collector and the Order of the Collector on such Appeal, shall be final subject to revision, if any, by the Administrative Tribunal.

In pursuance of sub-section (2) thereof from every original Order other than an Interim Order passed by the Collector, an Appeal would lie to the Administrative Tribunal and

Order of the Administrative Tribunal on such Appeal shall be final.

In pursuance of Section 50, a revision is provided where no Appeal lies under the Act or none has filed an Appeal within the period provided for it, the Collector is empowered on his own motion or application made by aggrieved person or a reference made in this behalf by the Government, at any time calls for records of any enquiries or proceedings of Mamlatdar or Tribunal for the purpose of satisfying himself and as to the regularity of the proceedings and pass such Order thereon, as being fit, before the expiry of one year from the date of such Order. The provisions of the Act also provides for appellate power of the Collector against the Order of Mamlatdar or the Tribunal constituted under Section 43, consisting 3 members called “The Agricultural Land Tribunal”.

Section 18K is also amended suitably incorporating in non-obstante clause restricting the right of tenant towards transfer of agricultural land to certain extent.

This Bill seeks to amend the Goa, Daman & Diu Agricultural Tenancy Act, 1964 (Act No. 7 of 1964) so as to do away with the pendency of matters that arise before the Collectors/Dy. Collectors.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum regarding delegated Legislation

No delegated legislation is involved in this Bill.

Porvorim – Goa.
31st July, 2009.

JOSE PHILIP D'SOUZA
Minister for Revenue

Assembly Hall,
Porvorim – Goa.
31st July, 2009.

J. N. BRAGANZA
Secretary, Legislature.

ANNEXURE

**Extract of present provisions of Goa, Daman
and Diu Agricultural Tenancy Act, 1964
(Act No. 7 of 1964)**

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa, Daman & Diu Agricultural Tenancy Act, 1964.

2. *Section 1.*— (1) This Act may be called the Goa, Daman & Diu Agricultural Tenancy Act, 1964.

3. *Section 2.*— (8) “Government” means the Government of Goa, Daman & Diu.

(17) “Official Gazette” means the Goa, Daman & Diu Government Gazette;

4. *Section 18.*— (4) Any tenant or landlord taking possession of any land or dwelling house except in accordance with the provisions of sub-section (1) or (2), shall be liable to forfeiture of crops, if any, grown in the land in favour of the landlord or the tenant, as the case may be, in addition to payment of such costs as may be awarded by the Mamlatdar or by the Collector on appeal and also to the penalty, if any, prescribed by or under this Act.

5. *Section 18J.*— (2) The Mamlatdar shall make an order directing that the land or part thereof referred to sub-section (1) shall be disposed of by sale to any person in the following order of priority:

(i) 75% of such land shall be disposed of by sale to persons belonging to the Scheduled Castes and Scheduled Tribes;

(ii) the land remaining after disposal in the manner provided in clause (i) shall be disposed of by sale in the following order of priority, namely:—

(ii)(d) A cooperative farming society registered as such under the Maharashtra Co-operative Society Act, 1960, as in force in the Union Territory of Goa, Daman and Diu.

6. *Section 18K.*— No land purchased by a tenant under this Chapter shall be transferred by sale, gift, exchange, mortgage, lease or assignment without the previous sanction of the Mamlatdar:

Provided that no such sanction shall be necessary where the land is to be mortgaged in favour of the Government or a Co-operative Society for the purpose of a loan for effecting any improvement of such land.

7. *Section 42A.*— (3) Any sum which is payable by a tenant or any other person towards the cost of any such work as is referred to in sub-section (1) shall be recoverable as arrears of land revenue.

8. *Section 49.*— *Appeals:*— (1) From every order²(including an order passed under Chapter II-A) other than an interim order passed by the Mamlatdar³(or the Tribunal) under this Act, an appeal shall lie to the Collector and the orders of the Collector on such appeal shall be final, subject to revision, if any, by⁴(the Administrative Tribunal).

(2) from every original order other than an interim order⁶[...] passed by the Collector⁷[...] and appeal shall lie to the³ Administrative Tribunal and the orders of⁸[Administrative Tribunal] on such appeal shall be final.*

9. *Section 50.*— (1) Where no appeal lies under this Act, or none has been filed within the period provided for it, the Collector, may, on his own motion or on an application made by an aggrieved person or on a reference made in this behalf by the Government, at any time or for the record of any enquiry or the proceedings of any Mamlatdar¹[or Tribunal] for the purpose of satisfying himself as to the legality or propriety of any order passed by and as to the regularity of the proceedings of such Mamlatdar¹[or Tribunal] and pass such order thereon as he deems fit:

Provided that no such record shall be called for after the expiry of one year from the date of such order and no order of such Mamlatdar shall be modified, annulled or reversed unless opportunity has been given to the interested parties to appear and be heard.

(2) An application for revision may be made to the Administrative Tribunal against any order, other than an interim order of the Collector, on the following grounds only:—

(a) that the order of the Collector was contrary to law;

(b) that the Collector has failed to determine some material issue of law; or

(c) that there was a substantial error in following the procedure provided by this Act, which has resulted in the miscarriage of justice.

10. *Section 51.*— (1) The Collector³[or the Administrative Tribunal] in appeal or in revision, may

confirm, modify or rescind the order in appeal or revision or its execution or may ⁴[remand the case for disposal with such direction as deemed fit or] pass such other order as may seem legal and just in accordance with the provisions of this Act.

11. *Section 52.*— (1) Every appeal or application or revision under this Act shall be filed within a period of 60 days from the date of the order of the Mamlatdar, Tribunal or Collector, as the case may be in the provisions of Section 4, 5, 12 and 14 of the Limitation Act, 1963 shall apply to the filing of such appeal or application for revision.

(2) Notwithstanding anything contained in the Court Fees Act, 1870, every appeal or application made under this Act to the Mamlatdar, Tribunal, Collector or the ¹[Administrative Tribunal] shall bear a Court Fee Stamp of such value as may be prescribed.

12. *Section 53.*— (1) Subject to the other specific provisions in this behalf, the procedure to be followed by the Mamlatdar or the Tribunal or the Collector ³[...] in all inquiries, appeals and proceedings under this Act and in revision by the Collector ²[...] shall be such as may be prescribed;

(3) All enquiries and proceedings before the Mamlatdar, the Tribunal ³[and the Collector] shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 & 228 of the Indian Penal Code.

12. *Section 58.*— (2) Save as provided under this Act, no Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Mamlatdar, Tribunal, Collector or Government and no order passed by these authorities under this Act shall be question in any Civil or Criminal Court:

13. *Section 58A.*— Notwithstanding anything contained in this Act or any law for the time being in force, no pleader shall be entitled to appear on behalf of any party in any proceedings under this Act before the Mamlatdar, or the Collector:

Provided that the Mamlatdar, or the Collector may, in the interest of justice and for reasons to be recorded in writing, allow the parties to be represented at their own cost by a pleader:

Provided, further, that pleader's fees shall not be allowed as part of the cost in any such proceedings:

Provided also that if any officer of Government is appointed or declared by a Competent Court or is authorized under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorized by him in writing in this behalf in any proceedings before the Mamlatdar or the Collector.

14. *Section 59.*— The Government shall have the power to issue directions or orders to Mamlatdars, Tribunal and Collectors, to give effect to the provisions of this Act and the rules made thereunder.

Assembly Hall,
Porvorim – Goa.
31st July, 2009.

J. N. BRAGANZA
Secretary, Legislature.

LA/LEGN/2009/1366

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2009 is hereby published for general information in pursuance of Rule - 138 of the Rule of Procedure and Conduct of Business of the Goa Legislative Assembly.

**The Goa Mundkars (Protection from
Eviction) (Amendment) Bill, 2009**

(Bill No. 20 of 2009)

A

BILL

*further to amend the Goa, Daman and Diu
Mundkars (Protection from Eviction) Act,
1975 (Act No. 1 of 1976).*

Be it enacted by the Legislative Assembly of the State of Goa in the Sixtieth Year of the Republic of India as follows:-

1. *Short title and commencement.*— (1) This Act may be called the Goa Mundkars (Protection from Eviction) (Amendment) Act, 2009.

(2) It shall come into force at once.

2. *Amendment of title of the Act.*— In the title “The Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act No. 1 of 1976) (hereinafter referred to as the “principal Act”), the figure and the words, “Daman and Diu” shall be omitted.

3. *Amendment of section 1.*—

In sub-section (1) of the principal Act,—

(i) the figure and the words, “Daman and Diu” shall be omitted.

(ii) In sub-section (2), for the expression “the whole of the district of Goa of Union Territory of Goa, Daman and Diu”, the expression “the whole of the State of Goa” shall be substituted.

4. *Amendment of section 2.*— In section 2 of the principal Act,—

(i) after clause (g), for the expression “in the Union Territory of Goa, Daman and Diu”, the expression “in the State of Goa” shall be substituted.

(ii) for clause (k), the following clause shall be substituted, namely:—

“(k)” “Government” means the Government of Goa;

(iii) In clause (l), for the expression “the Goa, Daman and Diu Village Panchayat Regulation, 1962”, the expression “the Goa, Panchayat Raj Act, 1994 (Goa Act No. 14 of 1994)”;

5. *Amendment of section 16.*— In section 16 of the principal Act, in sub-section (8), for the word “Collector”, the word “Mamlatdar” shall be substituted.

6. *Amendment of section 21.*— In section 21 of the principal Act,—

(i) in sub-section (1), after the words “Mamlatdar”, the figure and words “the Collector” shall be omitted.

(ii) after the word “revision”, the word “or review”, shall be substituted.

(iii) in sub-section (3), the figure and words “the Collector” shall be omitted.

7. *Amendment of section 22.*— In section 22 of the principal Act,—

(i) in sub-section (1), the figure and words, “the Collector” shall be omitted.

(ii) in sub-section (3), after the words “revision”, the words “or review” shall be substituted.

8. *Amendment of section 23.*— In section 23 of the principal Act, for the word “Collector”, the words “Administrative Tribunal” shall be substituted.

9. *Amendment of section 24.*— For section 24 of the principal Act, the following section shall be substituted:—

“24. *Appeal.*— From every original order, other than an interim order, passed by the Mamlatdar under this Act, an appeal shall lie to the Administrative Tribunal and the order of the Administrative Tribunal, shall be final”.

Explanation:— For the purpose of this section, “interim order” shall not include injunction order and such orders shall be subject to an appeal.

10. *Insertion of new section.*— After section 24 of the principal Act, the following section shall be inserted, namely:

“24A. *Review.*— The Administrative Tribunal on application of any party, may review its own order and in reference thereto, pass such orders as it deems fit”.

Provided that no such application shall be entertained unless the Administrative Tribunal is satisfied that there has been discovery of new and important matter or evidence which after the exercise of due diligence was not within his knowledge of the applicant and could not be produced by him at the time when the order was made or on account of some mistake or error

apparent on the face of the record or for any other sufficient reason:

Provided further that no such order shall be made under this sub-section, unless a notice has been given to all interested parties and they have been afforded a reasonable opportunity of being heard:

11. *Amendment of section 25.*— In heading of section 25 of the principal Act,—

(1) in sub-section (1),—

(i) in the first paragraph, the figure “(1)” shall be deleted.

(ii) for the expressions “From every order other than an interim order”, the expression “From every order passed by the Mamlatdar where no appeal lies under this Act”, shall be substituted.

(iii) the words “or the Government respectively”, shall be omitted.

(iv) the expression “or the Government, as the case may be,” shall be omitted.

(2) sub-section (2) shall be omitted.

12. *Amendment of section 26.*— In section 26 of the principal Act,—

(i) For sub-section (1), the following sub-section shall be substituted, namely:—

“(1) the Administrative Tribunal in appeal or in revision, may, confirm, modify or rescind the order or may pass such order as may be legal and just in accordance with the provision of this Act”.

13. *Amendment of section 27.*— For section 27 of the principal Act, the following section shall be substituted:—

“27.— *Powers of Civil Court to be exercised in the conduct of inquiries and proceedings under this Act.*— The Mamlatdar or Administrative Tribunal shall

exercise in all inquiries, proceedings, appeals, revisions or reviews, the powers as are exercised by the concerned trial court, appellate court or revisional court or a Court exercising review jurisdiction, under the Code of the Civil Procedure, 1908 (Central Act 5 of 1908)”.

14. *Amendment of section 28.*— In section 28 of the principal Act,—

(i) in sub-section (1), for the expression “application for revision”, the expression “application for revision or review” shall be substituted.

(ii) the figure and words “the Collector” shall be omitted.

(iii) for the words “application for revision”, the words “application for revision or review” shall be substituted.

(iv) In sub-section (2),—

(i) for the word “for revision”, the words “revision or review”, shall be substituted.

(ii) for figure and words “the Collector, Administrative Tribunal or the Government”, the words “or the Administrative Tribunal” shall be substituted.

15. *Amendment of section 29.*— In section 29 of the principal Act,—

(i) in sub-section (8), for the word “Collector”, the words “Administrative Tribunal” shall be substituted.

(ii) in sub-section (9), for the word “Collector”, the words “Administrative Tribunal” shall be substituted.

16. *Amendment of section 31.*— In section 31 of the principal Act, in sub-section (2), the words “the Collector” or the “Government” shall be omitted.

17. *Amendment of section 32.*— In section 32 of the principal Act,—

(i) in sub-section (1), for the word "Collector" wherever it occurs, the word "Administrative Tribunal" shall be substituted.

(ii) in sub-section (2), for the word "Collector", the words "Administrative Tribunal" shall be substituted.

18. *Amendment of section 33.*— In section 33 of the principal Act,— for the word "Collector", wherever it occurs, the word "Administrative Tribunal" shall be substituted.

19. *Amendment of section 36.*— In section 36 of the principal Act,—

(i) in sub-section (1), the words "or the Collector" shall be omitted.

(ii) in sub-section (2), for the expression "the Legislative Assembly of Goa, Daman and Diu", the expression "the Legislative Assembly of the State of Goa" shall be substituted.

20. *Insertion of new section.*— After section 39 of the principal Act, the following section shall be inserted, namely:—

"39A. *Act not to apply to pending proceedings.*— The provisions of the Goa Mundkars (Protection from Eviction) (Amendment) Act, 2009, shall not apply to the proceedings pending before the Collector or Administrative Tribunal, as the case may be, on and from the date of commencement of this Amendment Act, 2009".

21. *Amendment of section 40.*— In section 40 of the principal Act, in sub-section (2), for the expression "Legislative Assembly of Goa, Daman and Diu", the expression "Legislative Assembly of the State of Goa" shall be substituted.

Statement of Objects and Reasons

An amendment was required to be carried out to the Goa Mundkars (Protection from Eviction) Act, 1975 to provide only an Appeal

before the Administrative Tribunal against the Order of the Mamlatdar and removing the appellate powers of the Collector and revisional powers of the Administrative Tribunal thereby retaining the power of revision before the Government under Section 25 against the Order of Administrative Tribunal.

After examining the matter in the light of the Goa, Daman and Diu Mundkar (Protection from Eviction) Act, Section 21 of the Goa, Daman & Diu (Protection from Eviction) which provides for every decision or Order passed by the Mamlatdar, the Collector or the Administrative Tribunal or the Government in all inquiries or proceedings under the Act, shall be deemed to be judicial proceedings within the meaning of Section 193, 219 and 228 of Indian Penal Code (Central Act 45 of 1860).

Section 24 stipulates that appeal from every original Order other than Interim Order passed by the Mamlatdar or the Collector under the Act, would lie before the Collector or the Administrative Tribunal, respectively, as the case may, and the Order of the Collector and the Administrative Tribunal, shall subject to revision, if any, under Section 25 of the Act, be final.

Section 25 of the Act, 1975 further stipulates that from every order other than Interim Order passed in appeal under Section 24 or sub-section (2), a revision would lie to the Administrative Tribunal or the Government, respectively and the Order of Administrative Tribunal or the Government, as the case may be, on such revision, shall be final. It is, therefore, provision of Section 24 and Section 25 of the Act, have been modified suitably, alongwith consequential changes in various sections, thereby powers exercised by the Collector as an Appellate Authority have been conferred on the Administrative Tribunal. Certain consequential changes have been carried out in view of conferment of Statehood to the Goa. The retention of revision before the Government under Section 25 against the Order of the Administrative Tribunal, as per

the existing provisions of Section 25, every Order other than Interim Order, passed in Appeal under Section 24 or under sub-section (2), a revision would lie to the Administrative Tribunal or the Government, respectively and the Order of the Administrative Tribunal or the Government, as the case may be, on such revision, shall be final.

By virtue of Section 27 of the Act, 1975, the Mamlatdar, the Collector, the Administrative Tribunal or the Government would exercise in all inquiries, proceedings, appeals, revision, the powers as exercised by the Trial Court, Appellate Court or the Court exercising revisional jurisdiction under the Court of Civil Procedure. Considering the above facts, the revisional power of the Government is done away with and a review is provided in place of revision by the Administrative Tribunal and therefore, the Administrative Tribunal will be exercising the powers of the Appellate Authority as well as Reviewing Authority.

Again, a provision also stands incorporated and suitably modified during certain types of cases as prevalent under Order 47 of C.P.C. for the purpose of review of the Administrative Tribunal. Similarly, a provision regarding pending proceedings which were earlier brought within the purview of the Amendment Act, 2009 has now been brought within the jurisdiction of the Collector, as a result, the Collector would continue the exercise of powers under the Mundkar Act, 1975, on an after commencement of the Amendment Act, 2009 and Appeal against the Order of the Mamlatdar would lie before the Collector.

This Bill seeks to amend the Goa Mundkars (Protection from Eviction) Act, 1975 to provide only an appeal before the Administrative Tribunal against the Order of the Mamlatdar and removing the appellate powers of the Collector and revisional powers of the Administrative Tribunal thereby retaining the powers of the revision before the Government

under Section 25 against the Order of the Administrative Tribunal.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is involved in this Bill.

Porvorim – Goa,
31st July, 2009.

JOSE PHILIP D'SOUZA
Minister for Revenue

Assembly Hall,
Porvorim – Goa
31st July, 2009

J. N. BRAGANZA
Secretary, Legislature.

ANNEXURE

.....
Extract of present provisions of Goa, Daman & Diu Mundkars (Protection from Eviction) Act, 1975
(Act No. 1 of 1976)
.....

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa, Daman & Diu Mundkars (Protection from Eviction) Act, 1975.

(2) It extends to the whole of the District of Goa of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by Notification in the Official Gazette, appoint.

2. *Section 2.*— In this Act, unless the context otherwise, requires—

(g) "Chief Town Planner" means an officer appointed by the Government to enforce Town Planning Regulations in the Union Territory of Goa, Daman & Diu:

(k) "Government" means the Administrator of the Union Territory of Goa, Daman & Diu appointed

by the President under Article 239 of the Constitution:

(1) "local authority" means a Municipal Council established under the Goa, Daman and Diu Municipalities Act, 1969 or a Village Panchayat established under the Goa, Daman and Diu Village Panchayat Regulation, 1962:

3. *Section 16(8).*— After the Order of the Mamlatdar under sub-section (3) has become final and on the deposit of last installment of the purchase price in a lumpsum, the Collector shall issue a Certificate of Purchase in such form and containing such particulars as may be prescribed and thereupon the right, title and interest of the Bhatkar shall, in respect of the dwelling house allowed to be purchased, vest in the Mundkar free from all encumbrances or charges.

4. *Section 21(1).*— Subject to the other provisions of this Act in this behalf, the procedure to be followed by the Mamlatdar, the Collector, the Administrative Tribunal or the Government in all enquiries, appeals, applications for revisions and other proceedings under this Act, shall be such as may be prescribed.

(3) All enquiries and proceedings before the Mamlatdar, the Collector, the Administrative Tribunal or the Government shall be deemed to be judicial proceedings within the meaning of Section 193, 219 and 228 of the Indian Penal Code (Central Act 45 of 1960).

5. *Section 22(1).*— Any sum, the payment of which has been directed by an Order of the Mamlatdar, the Collector, the Administrative Tribunal or the Government, including an order avoiding cost, shall be recoverable from the person ordered to pay the same as arrears of land revenue.

(3) An order or decision of the Mamlatdar in execution proceedings shall, subject to appeal or revision, if any, be final.

6. *Section 23.*— The Collector, may, after due notice to the parties, by order in writing, transfer any proceedings under this Act pending before a Mamlatdar, from such Mamlatdar to any other Mamlatdar and the Mamlatdar to whom the proceedings are so transferred shall thereupon exercise jurisdiction under this Act in such proceedings.

7. *Section 24.— Appeal.*— From every original order, other than an interim order, passed by the Mamlatdar or the Collector under this Act, an Appeal shall lie to the Collector or the Administrative Tribunal respectively, and the order of the Collector or the Administrative Tribunal, as the case may be, shall, subject to revision if any, under Section 25 of this Act, be final.

Explanation.— For the purpose of this Section "Interim Order" shall not include injunction order and such order shall be subject to appeal and revision.

8. *Section 25.*— (1) From every order, other than an interim order, passed in appeal under Section 24 or under sub-section (2), a revision shall lie to the Administrative Tribunal or the Government, respectively and the order of the Administrative Tribunal or the Government, as the case may be, on such revision shall be final.

(2) Save as otherwise expressly provided under this Act, where no appeal lies under this Act, the Collector may on his own motion or an application made by aggrieved person, or on a reference made in this behalf by the Government, at any time, call for the record of any enquiry or proceedings of any Mamlatdar for the purpose of satisfying himself as to the legality or propriety of any order passed by the Mamlatdar and as to the regularity of the proceedings and pass such order thereon as he deems fit:

Provided that no such records shall be called for, after the expiry of six months from the date of such order and no order of such Mamlatdar shall be modified, annulled or reserved unless reasonable opportunity has been given to the interested parties to be appeared and be heard.

9. *Section 26(1).*— The Collector or the Administrative Tribunal or the Government in appeal or in revision, may, confirm, modify or rescind the order in appeal or revision, or may pass such order as may be legal just in accordance with the provisions of this Act.

10. *Section 27.*— The Mamlatdar, the Collector, the Administrative Tribunal or the Government shall exercise in all inquiries, proceedings, appeals or

revisions, the powers as are exercised by the concerned Trial Court, Appellate Court or a Court exercising revisional jurisdiction, under the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

11. *Section 28.*— (1) Every appeal or application for revision under this Act shall be fixed within a period of 60 days from the date of the communication of the order of the Mamlatdar, the Collector or the Administrative Tribunal, as the case may be, and the provisions of Section 4, 5, 12 and 14 of the Limitation Act, 1963, shall apply to the filing of such appeal or application for the revision (Central Act 36 of 1963).

(2) Notwithstanding anything contained in the Court Fees Act, 1870, every application, appeal, or revision made under this Act to the Mamlatdar, the Collector, the Administrative Tribunal or the Government shall bear a Court Fee Stamp of such value as may be prescribed (Central Act 7 of 1870).

12. *Section 29.*— (8) Any persons aggrieved by the registration of a Mundkar or by the refusal to register a person claiming to be a Mundkar may, within 60 days from the date of registration or refusal, as the case may be, file an appeal to the Collector.

(9) On receipt of an appeal under sub-section (8), the Collector may call for the records of any proceedings under sub-section (6) and may make such inquiry or cause such inquiry to be made and may pass such order thereon as he deems fit:

Provided that no order prejudicial to any person shall be passed without giving him a reasonable opportunity of being heard.

13. *Section 31.*— (2) No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined, by the Mamlatdar or the Collector or the Government or the Administrative Tribunal and no order passed by such authority under this Act shall be questioned in any Civil or Criminal Court.

14. *Section 32.*— (1) If any suit instituted in any Civil Court involves any issues which are required to be settled, decided or dealt with by the Mamlatdar or the Collector under this Act, the Civil Court shall

stay the suit and refer such issues to the Mamlatdar or the Collector, as the case may be, for determination.

(2) On receipt of such reference from the Civil Court, the Mamlatdar or the Collector shall deal with and decide such issues in accordance with the provisions of this Act and shall communicate his decisions to the Civil Court and such Court shall thereupon decide the suit in accordance with the procedure applicable thereof.

15. *Section 33.*— Notwithstanding anything contained in the Act or any law for the time being in force, no pleader shall be entitled to appear on behalf of any party in any proceedings under this Act before the Mamlatdar or the Collector:

Provided that the Mamlatdar or the Collector may, in the interest of justice and for reasons to be recorded in writing, allow the parties to be represented at their own cost by a pleader:

Provided further that the fees for the pleader shall not be allowed as part of the cost in any proceedings:

Provided also that if any officer of the Government is appointed or declared by the Competent Court or is authorized under any law for the time being in force as a guardian, Administrator or Manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorized by him in writing in this behalf in any proceedings before the Mamlatdar or the Collector.

16. *Section 36.*— (1) The Government shall have power to issue directions or orders to the Mamlatdar or the Collector to give effect to the provisions of this Act and the Rules made thereunder.

(2) Any such directions shall be published in the Official Gazette and shall be laid as soon as may be, after it is issued before the Legislative Assembly of Goa, Daman & Diu while it is in Session for a period of 30 days.

17. *Section 40.*— (2) Every rule made under this Act, shall be laid as soon as may be, after it is made before the Legislative Assembly of Goa, Daman & Diu while it is in session for a total period of 30 days

which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agree in making any modification in the Rule or the Legislative Assembly agrees that the rule should not be made and notifies such decision in the Official Gazette, the rule shall from the date of such Notification, have effect only in such modified form or be of no effect as the case may be, so, however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

Assembly Hall,
Porvorim – Goa.
31st July, 2009.

J. N. BRAGANZA
Secretary, Legislature.

LA/LEGN/2009/1367

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2009 is hereby published for general information in pursuance of Rule - 138 of the Rule of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Land Revenue (Amendment) Bill, 2009

(Bill No. 21 of 2009)

A

BILL

further to amend the Goa Land Revenue Code, 1968 (Act No. 9 of 1969).

Be it enacted by the Legislative Assembly of the State of Goa in the Sixtieth Year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Land Revenue (Amendment) Act, 2009.

(2) It shall come into force at once.

2. *Insertion of new section.*— After section 32 of the Goa Land Revenue Code, 1968

(Act No. 9 of 1969) (hereinafter referred to as the “principal Code”), the following section shall be inserted, namely:—

“32A. *Grant of sanad in Settlement Zone.*— Notwithstanding anything contained in section 32 of this Code, any land demarcated as settlement zone in the Outline Development Plan and/or the Regional Plan as duly notified under the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act No. 21 of 1975), the Collector shall grant permission to use the land for such purpose permissible under the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act No. 21 of 1975) or the Regulation framed thereunder in respect of Settlement Zone and issue sanad to the applicant subject to payment of fees as specified under sub-section (6) of section 32 of the Code.”.

3. *Amendment of section 33.*— In sub-section (1) of section 33 of the principal Code, after the words and figures “section 32”, the words and figures “or 32A” shall be inserted.

4. *Amendment of section 96.*— In section 96 of the principal Code,—

(i) for the words “Talathi” wherever it occurs, the words “Mamlatdar of Taluka” shall be substituted;

(ii) the expression “within three months from the date of such acquisition” shall be omitted;

(iii) the Explanation III shall be omitted.

5. *Amendment of section 97.*— In section 97 of the principal Code,—

(i) in sub-sections (1), (2) and (3), for the word “Talathi” the words “the Mamlatdar of the Taluka” shall be substituted;

(ii) in sub-sections (4) and (6), for the words “an Awal karkun” the words “a Deputy Collector” shall be substituted.

6. *Amendment of section 99.*— In section 99 of the principal Code, for the words “or a Talathi” wherever it occurs, the words “or the Mamlatdar of the Taluka” shall be substituted.

7. *Amendment of section 101.*— In section 101 of the principal Code, in clause (a), for the words “a Talathi”, the words “or the Mamlatdar of the Taluka” shall be substituted.

8. *Amendment of section 102.*— In section 102 of the principal Code, for the expression “Talathi of the Village” the words “Mamlatdar of the Taluka” shall be substituted.

Statement of Objects and Reasons

Insertion of 32 A.— This insertion is carried out in order to simplify the procedure of Land Revenue Code, 1968.

The Bill seeks to amend sections 33, 96, 97, 99, 101 and 102 of the Goa Land Revenue Code, 1968 so as to facilitate development of housing in settlement areas and vest powers on the Mamlatdar of the Taluka instead of the Talathi and further seeks to enable the Mamlatdar do take up mutations without any application specially in cases where other authorities have already adjudicated on issues and which are entitled to deal with.

The amendments are aimed at facilitating housing in settlement areas and the system of mutation which has so far been cumbersome and time consuming to the public.

The Bill seeks to achieve the above objects.

Financial Memorandum

This Bill does not involve any financial implication.

Memorandum Regarding Delegated Legislation

No Delegated Legislation is involved in this Bill.

Porvorim, Goa. JOSE PHILIP D'SOUZA
31st July, 2009. Minister for Revenue

Assembly Hall, J. N. BRAGANZA
Porvorim, Goa. Secretary to the Legislative
31st July, 2009. Assembly of Goa

ANNEXURE

.....
**Extract of Section 32, 33, 96, 97, 99, 101, 102, the
Goa Land Revenue Code, 1968 (Act No. 9 of 1969)**
.....

32 (\$). Procedure for conversion of use of land from one purpose to another.—

(1) If an occupant of land or a tenant of such land-

(a) which is assessed or held for the purpose of agriculture wishes to use it for a non-agricultural purpose, or

(b) where land is assessed or held for a particular non-agricultural purpose, wishes to use it for another agricultural purpose, or

(c) desire to use it for the same non-agricultural purpose for which it is assessed but in relaxation of any of the conditions imposed at the time of grant of land or permission for such non-agricultural purpose, such occupant or tenant shall, with consent of the tenant or, as the case may be, of the occupant apply (\$) to the Collector for permission in accordance with the form prescribed.

(2) The Collector on receipt of an application,-

(a) shall acknowledge the application within seven days;

(b) may, unless the Collector directs otherwise, return the application if it is not made by the occupant or, as the case may be, the tenant or if the consent of the tenant, or as the case may be, of the occupant has not been obtained, or if it is not in accordance with the form prescribed;

(c) may, after the inquiry, either grant the permission on such terms and condition as he may specify subject to any rules made in this behalf by the Government; or refuse the permission applied for, if it is necessary so to do to secure public health, the safety and convenience or planned development of a village, town or city in force under any law for the time being in force and in the case of land which is to be used as building sites in order to secure in addition that the dimension, arrangement and accessibility of the sites are adequate for the health and convenience of the occupiers or are suitable to the localities; wherein an application is rejected, the

Collector shall state the reasons in writing of such rejection.

(3) If the Collector fails to inform the applicant of his decision within ninety days from the date of acknowledgement of the applicant, or from the date of receipt of the application if the application is not acknowledge, or within fifteen days from the date of receipt of application for a temporary change of user or wherein application has been duly returned for the purpose mentioned in the clause (b) of sub section (2), then within ninety days from the date on which it is again presented duly complied with, the permission applied for shall be deemed to have been granted, but subject to any conditions prescribed in the rules made by the Government in respect of such users.

(4) The person to whom permission is granted or deemed to have been granted under this section shall inform the Mamlatdar in writing through the village accountant of the date on which the change of user of land commenced, within thirty days from such date.

(5) If the person fails to inform the Mamlatdar within the period specified in sub-section (4), he shall be liable to pay in addition to the non-agricultural assessment such fine as the Collector may, subject to rules made in this behalf, direct but not exceeding five hundred rupees.

(6) When the land is permitted to be used for a non-agricultural purpose, a sanad shall be granted to the holder thereof in the form prescribed under the rules.

(7) It shall be lawful for the Collector, either on his own motion or on the application of a person affected by the error to direct at any time the correction of any clerical or arithmetical error in the sanad arising from any accidental slip or omission.

33. Penalty for so using the land without permission.

(*) (1) If any land held or assessed for one purpose is used for another purpose without obtaining permission of the Collector under section 32 or before the expiry of the period after which the change of user is deemed to have been granted under that section, or in contravention of any of the terms and conditions subject to which such permission is granted, the holder thereof or other person claiming through or under him, as the case may be, shall be liable to the one or more of the following penalties, that is to say,—

(i) to pay non-agricultural assessment on the land with reference to the altered use;

(ii) to pay such fine not exceeding the market value of the land as the Collector may, subject to rules made by the Government in this behalf, direct;

(iii) to restore the land to its original use or to observe the conditions on which the permission is granted within such reasonable period as the Collector may by notice in writing direct; and such notice may require such person to remove any structure, to fill up any excavation or to take such other steps as may be required in order that the land may be used for its original purpose or that the conditions may be satisfied.

(2) If any person fails within the period specified in the notice aforesaid to take steps required by the Collector, the Collector may also imposed on such person a penalty not exceeding three hundred rupees for such contravention, and a further penalty not exceeding thirty rupees for each day during which the contravention continues. The Collector may himself takes those steps or cause them to be taken; and any cost incurred in so doing shall be recoverable from such person as if it were an arrears of land revenue.

Explanation:— Using the land for the purpose of agricultural where it is assessed with reference to any other purpose shall not be deemed to be changed of user.

96. Acquisition of rights to be reported.— Any person acquiring by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right as holder, occupant, mortgagee, land lord, tenant or Government lessee of any land, shall report orally or in writing his acquisition of such right to the Talathi within three months from the date of such acquisition, and the said Talathi shall at once give a written acknowledge of the receipt of such report to the person making it:

Provided that, where the persons acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the Talathi:

Provided further that any person acquiring a right with the permission of the Collector or by virtue of a registered document shall be exempted from the obligation to report to the Talathi:

Provided also that, where a person claims to have acquired a right with the permission of the Collector where such permission is required under the provisions of this code or any law for the time being in force, such person shall on being required by the Talathi so to do produce evidence of the order by which such permission is given.

Explanation I.— The rights mentioned above include a mortgage without possession, but do not include as easement or a charge not amounting to a mortgage of the kind specified in section 100 of the Transfer of Property Act, 1882.

Explanation II.— A person in whose favour a mortgage is discharged or extinguished, or lease determine, acquires a right within the meaning of this section.

Explanation III.— For the purpose of this Chapter, the term “Talathi” includes any person appointed by the Collector to perform the duties of Talathi under this Chapter.

97. Register of mutations and register of disputed cases.—

(1) The Talathi shall enter in a register of mutations in such form as may be prescribed every report made to him under section 96 or any intimation of acquisition or transfer under section 102 or from any Collector.

(2) Whenever a Talathi makes an entry in the register of mutation, he shall at the same time post up a complete copy of the entry in a conspicuous place in the village or where there is a Village Panchayat, on the notice board of such Panchayat, and shall give written intimation to all persons appearing from the record of rights or register of mutations, to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein.

(3) When any objection to any entry made under sub-section (1) in the register of mutation, is made either orally or in writing to the Talathi, it shall be the duty of the Talathi to enter the particulars of the objections in a register of disputed cases. The Talathi shall at once give a written acknowledgement for the objection to the person making it in the prescribed form.

(4) Disputes entered in the register of disputed cases shall as far as possible be disposed of within one year by a revenue or survey officer not below the rank of an Awalkarkun and orders disposing

of objections entered in such register shall be recorded in the register of mutations by such officer in such manner as may be prescribed by rules made by the Government in this behalf.

(5) The transfer of entries from the register of mutations to the record of rights shall be effected subject to such rules as may be made by the Government in this behalf:

Provided that an entry in the register of mutations shall not be transferred to the record of rights until such entry has been duly certified.

(6) Entries in the Register of mutations shall be tested and if found correct, or after correction, as the case may be, shall be certified by any revenue or survey officer not below the rank of an Awalkarkun in such manner as may be prescribed:

Provided that no such entries shall be certified unless notice in that behalf is served on the parties concerned.

99. *Obligation to furnish information.*— (1) Any person whose rights, interest or liabilities are required to be, or have been entered in any record or register, under this Chapter shall be bound, on the requisition of any revenue officer or Talathi engaged in compiling or revising the record or register, to furnish or produce for his inspection, *within one month from the date of such requisition*, all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power.

(2) A revenue officer or a Talathi to whom any information is furnished or before whom any document is produced in accordance with the requisition under sub section (1), shall at once give a written acknowledgment thereof to the person furnishing or producing the same and shall endorse on any such document a note under his signature stating the fact of its production and the date thereof and may return the same immediately after keeping a copy of it, if necessary.

101. *Requisition of assistance in preparation of maps.*— Subject to rules made in this behalf by the Government—

(a) any revenue officer or a Talathi may, for the purpose of preparing or revising any map or plan required for, or in connection with any record or register under this Chapter, exercise any of the powers of assessing the cost of hired labour under section 58, and

(b) any revenue officer of a rank not lower than that of an Assistant or Deputy Collector or of a survey officer may assess the cost of the preparation or revision of such map or plan and all contingent expenses, including the cost of clerical labour and supervision, on the lands to which such maps or plan relate and such costs shall be recoverable as the revenue demand.

102. *Intimation of Transfer by registering officers.*— When any document purporting to create, assign or extinguish any title to, or only charge on, land used for agricultural purposes, or in respect of which a record of rights has been prepared is registered under the Indian Registration Act, 1908, the officer registering the document shall send intimation to the Talathi of the Village in which the land is situated and to the Mamlatdar of the Taluka, in such form and at such times as may be prescribed by rules made under this Code.

Assembly Hall,
Porvorim – Goa.
31st July, 2009.

J. N. BRAGANZA
Secretary, Legislature.

LA/LEGN/2009/1368

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2009 is hereby published for general information in pursuance of Rule - 138 of the Rule of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Land Use (Regulation) Act (Amendment) Bill, 2009

(Bill No. 22 of 2009)

A

BILL

to amend the Goa Land Use (Regulation) Act, 1991 (Goa Act 3 of 1991).

Be it enacted by the Legislative Assembly of the State of Goa in the Sixtieth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) The Act may be called the Goa Land Use (Regulation) (Amendment) Act, 2009.

(2) It shall come into force at once.

2. *Amendment of section 2.*— In section 2 of the Goa Land Use (Regulation) Act, 1991 (Goa Act 3 of 1991) (hereinafter referred to as the “principal Act”),

(i) in third paragraph, after the expression “Agricultural Tenancy Act, 1964 (Act 7 of 1964)” and before the expression “shall be used” the expression “or purchasee of such land in execution of a decree of a Civil Court or of a Revenue Court, as the case may be,” shall be inserted.

(ii) In Explanation, after the word “land”, the word “agricultural” shall be inserted.

3. *Insertion of new section.*— After section 2 of the Principal Act, the following section shall be inserted, namely:—

“2A.— *Restriction on the owner of agricultural land to sale and use of land for non-agriculture purpose.*—

(1) The owner of an agricultural land shall not transfer any such land either by way of sale, gift, exchange or lease in favour of any person including foreigners, other than agriculturists.

(2) No owner of cultivable agricultural land shall use or allow to use his cultivable agricultural land for any purpose other than agriculture.

Explanation:— For the purpose of this section: “Agricultural land” means any land which is being cultivated with paddy or has been cultivated in past with paddy and now left fallow or any land which can be put to use for cultivation of paddy.

4. *Insertion of new section.*— After section 3 of the principal Act, the following section shall be inserted, namely:—

“3A. If any question arises as to whether the land is agricultural as defined under this section, the Director of Agriculture, Government of Goa, shall be the competent authority to decide the same.

Statement of Objects and Reasons

The proposed Legislation imposes restrictions on the owner of agricultural land to sell or use of land for non-agricultural purpose either by way of sale, gift, exchange or lease in favour of any person including foreigners other than agriculturists. Restrictions are also imposed for allowing use of agricultural land for any purpose other than agricultural.

The object of the aforesaid amendment is similar to one deemed purchasee of tenanted agricultural land which is vested in the tenant as a deemed purchasee, restricting to use for the purpose not other than agriculture.

Evidently, the owner of the cultivable agricultural land which is cultivating agriculture, should not use for any purpose other than agriculture. As a result, the owner will be totally statutory barred towards sale as well as for putting use of cultivable agricultural land for non-agricultural purpose.

There is an insertion in third paragraph, after the expression “Agricultural Tenancy Act, 1964 (Act 7 of 1964)” and before the expression “shall be used”, the expression “or purchasee of such land in execution of a decree of a Civil Court or of a Revenue Court as the case may be,” shall be inserted.

Another insertion of new Section 2A after Section 2 of the principal Act has been incorporated restricting the owner of agricultural land to sale and use of land for non agricultural purposes.

In addition to the above, one more insertion of new Section 3A has been incorporated after Section 3 of the principal Act wherein if any question arises as to whether the land is agricultural as a defined under this Section, the Director of Agriculture, Government of Goa shall be the Competent Authority to decide the same.

The bill seek to achieve the objects.

Financial Memorandum

There is no financial implication involved and hence the approval of the Finance Department is not required.

Memorandum Regarding Delegated Legislation

No delegated legislation is involved in this Bill.

Porvorim-Goa.
Dated: July, 2009.

JOSE PHILIP DE SOUZA
Minister for Revenue

Assembly Hall,
Porvorim.
Dated: July, 2009.

(J. N. BRAGANZA)
Secretary, Legislature.

ANNEXURE

BILL No. __, 2009

The Goa Land Use (Regulation) (Amendment) Bill, 2009

2. *Regulation of use of land.*— Notwithstanding anything contained in the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975), or in any plan or scheme made thereunder, or in the Goa Land Revenue Code, 1968 (Act 9 of 1969), no land which is vested in a tenant under the provision of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964) shall be used or allowed to be used for any purpose other than agriculture.

3. *Exemption.*— The provisions of this Act shall not apply to acquisition of any land vested in a tenant under the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964) by the State for a public purpose under the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

Assembly Hall,
Porvorim, Goa.

J. N. BRAGANZA
Secretary, Legislature.

Dated: ____ July, 2009.



Department of Law & Judiciary

Legal Affairs Division

Notification

10/1/2009-LA/224

The Collection of Statistics Act, 2008 (Central Act No. 7 of 2009), which has been passed by Parliament and assented to by the President of India on 7-1-2009 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 9-1-2009, is hereby published for general information of the public.

Julio Barbosa Noronha, Under Secretary (Law).

Porvorim, 16th July, 2009.

THE COLLECTION OF STATISTICS ACT, 2008

Arrangement of Sections

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Preliminary

Sections

1. Short title, extent and commencement.
2. Definitions.

Sections

CHAPTER II

Collection of Statistics

3. Collection of statistics.
4. Powers of appropriate Government to appoint statistics officer, etc.
5. Power of statistics officer to call for information.
6. Duty of Informants.
7. All agencies to assist.
8. Right of access to records or documents.

CHAPTER III

Disclosure of Information in Certain Cases and Restrictions of their use

9. Security of information.
10. Appropriate Government authorised to disclose certain information.
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28. Power to give directions.
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30. Bar of jurisdiction.
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32. Overriding effect.
33. Power to make rules.
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THE COLLECTION OF STATISTICS
ACT, 2008

AN

ACT

to facilitate the collection of statistics on economic, demographic, social, scientific and environmental aspects and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—

(1) This Act may be called the Collection of Statistics Act, 2008.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “agency” includes a person or persons engaged by the appropriate Government, directly or by outsourcing, for collection of statistics;

(b) “appropriate Government” means—

(i) any Ministry or Department in the Central Government; or

(ii) any Ministry or Department in a State Government or Union territory Administration; or

(iii) any local government that is to say, Panchayats or Municipalities, as the case may be,

in relation to the collection of statistics under a direction issued by it under section 3;

(c) “informant” means any person, who supplies or is required to supply statistical information and includes a owner or occupier or person in-charge or his authorised representative in respect of persons or a firm registered under the Indian Partnership Act, 1932 or a co-operative society registered under any Co-operative Societies Act or a company registered under the Companies Act, 1956 or a society registered under the Societies Registration Act, 1860 or any association recognised or registered under any law for the time being in force;

(d) “information schedule” means any book, document, form, card, tape, disc or any storage media on which information required is entered or recorded or is required to be entered or recorded for statistical purposes under this Act;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “sampling” means a statistical procedure by which information relating to a particular field of inquiry is derived by applying statistical techniques to information obtained in respect of a proportion of the total number of persons or units concerned relevant to the field of inquiry;

(g) “statistical survey” means a census or a survey, whereby information is collected from all the informants in the field of inquiry or from a sample thereof, by an appropriate

Government under this Act or any other relevant Act, wholly or primarily for the purposes of processing and summarising by appropriate statistical procedures;

(h) “statistics” means statistics derived by collecting, classifying and using statistics, specially in or for large quantities or numbers by appropriate Government from statistical surveys, administrative and registration records, and other forms and papers, the statistical analysis of which are, whether in a published or unpublished form;

(i) “statistics officer” means any officer appointed under section 4 for the purposes of any direction issued under section 3 of this Act.

CHAPTER II

Collection of Statistics

3. *Collection of statistics.*— The appropriate Government may, by notification in the Official Gazette, direct that the statistics on economic, demographic, social, scientific and environmental aspects shall be collected through a statistical survey or otherwise, and thereupon the provisions of this Act shall apply in relation to those statistics:

Provided that—

(a) nothing contained in this section shall be deemed to authorise a State Government or Union territory Administration or any local government to issue any direction with respect to the collection of statistics relating to any matter falling under any of the entries specified in List I (Union List) in the Seventh Schedule to the Constitution; or

(b) where the Central Government has issued any direction under this section for the collection of statistics relating to any matter, no State Government or Union territory Administration or any local government shall, except with the previous approval of the Central Government, issue any similar direction for so long as the

collection of such statistics by the Central Government remain to be completed; or

(c) where a State Government or Union territory Administration or any local government has issued a direction under this section for the collection of Statistics relating to any matter, the Central Government shall not issue any similar direction for so long as the collection of such statistics by the State Government remain to be completed, except in cases where such statistics have to be collected with reference to two or more States or Union territories.

4. *Powers of appropriate Government to appoint statistics officer, etc.*— (1) The appropriate Government may appoint or cause to appoint an officer to be the statistics officer for any geographical unit for the purpose of collecting any statistics directed by it.

(2) The appropriate Government may appoint any agency or persons working in such agencies to take, or aid in, or supervise the collection of the statistics within any specified geographical unit and such agencies or persons, when so appointed, shall be bound to serve accordingly.

(3) The appropriate Government may employ on contract basis any agency or company or organisation or association or person, on such terms and conditions and on such safeguards as may be prescribed, for the purpose of collecting the statistics directed by it.

(4) The appropriate Government may delegate to any statistics officer, as it thinks fit, the power of appointing agencies or persons working in such agencies or employing on contract basis any agency or company or organisation or association of persons, conferred on it by sub-sections (2) and (3) within the geographical unit for which such statistics officer is appointed.

(5) The appropriate Government may, by order specify the form, the particulars required or the interval within which, and the statistics

officer to whom, the statistical information by the informants shall be furnished.

(6) The appropriate Government may, by order published in the Official Gazette, delegate to any statistics officer, as it thinks fit, any power conferred under sub-section (5) for the purpose of the collection of statistics under a direction issued by it under section 3.

5. *Power of statistics officer to call for information.*— The statistics officer may, for the purpose of collection of statistics on any specified subject in any geographical unit for which the said officer was appointed—

(a) serve or cause to be served on any informant a notice in writing asking him to furnish the information specified under sub-section (5) of section 4 or cause a information schedule to be given to any informant for the purpose of its being filled up; or

(b) cause all questions relating to the subject to be asked from any informant; or

(c) seek information through tele fax or telephone or e-mail or in any other electronic mode or in a combination of different modes for different sets of information so specified.

6. *Duty of informants.*— The informants who are asked to furnish any information under the provisions of this Act shall be bound to furnish the information so asked in the prescribed manner to the best of knowledge or belief; and in cases where only a portion of a particular class or group of persons or units is asked to furnish information because of any sampling procedure, it shall not be a defence in failure on the part of any informant to furnish that information, if so asked.

7. *All agencies to assist.*— Every agency shall render such help and assistance and furnish such information to the statistics officer or a person or an agency authorised by him in writing, as he may require for the discharge of his functions, and shall make available for

inspection and examination of such records, plans and other documents, as may be necessary.

8. *Right of access to records or documents.*— The statistics officer or any person authorised by him in writing in this behalf shall, for the purposes of collection of any statistics under this Act, have access to any relevant record or document in the possession of any informant required to furnish any information under this Act, and may enter at any reasonable time any premises where he believes such record or document is kept and may inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required to be furnished under this Act.

CHAPTER III

Disclosure of Information in certain cases and restrictions of their use

9. *Security of information.*— (1) Any information furnished to the statistics officer or to any person or agencies authorised under this Act shall only be used for statistical purposes.

(2) No person other than a person engaged in the work of collection of statistics under this Act or preparation of statistics resultant to such collection shall be permitted to see any information schedule or any answer to a question asked, except for the purposes of a prosecution under this Act.

(3) No information contained in any information schedule and no answer to any question asked shall, except for the purposes of a prosecution under this Act, be separately published, or disclosed without suppressing the identification of informants to any agency.

(4) All statistical information published by any agency shall be arranged in such a manner so as to prevent any particulars becoming identifiable by any person (other than the informant by whom those particulars were supplied) as the particulars relating to the informant who supplied it, even through the process of elimination, unless—

(a) that informant has consented to their publication in that manner; or

(b) their publication in that manner could not reasonably have been foreseen by the concerned agency or any employee thereof.

(5) For the purposes of sub-section (4), the Central Government may make such rules or make such arrangement, as it may consider necessary.

10. *Appropriate Government authorised to disclose certain information.*— Notwithstanding the provisions contained in section 9 of this Act, the appropriate Government may disclose the following information, namely:—

(a) information supplied by informant in respect of which disclosure is consented to in writing by the informant or by any person authorised by the said informant;

(b) information otherwise available to the public under any Act or as a public document;

(c) information in the form of an index or list of the names and addresses of informants together with the classification, if any, allotted to them and the number of persons engaged.

11. *Disclosure of information schedules for bona fide research or statistical purposes.*— (1) Notwithstanding the provisions contained in section 9 of this Act, the appropriate Government may disclose individual returns or formats or information schedules to other agency or person or institutions or universities solely for *bona fide* research or statistical purposes pursuant to their functions and duties.

(2) No individual return or information schedule shall be disclosed pursuant to this section unless—

(a) the name and address of the informant by whom the schedule or related information was supplied is deleted;

(b) every agency or person or institutions or Universities involved in the research or statistical project makes a declaration to use the schedules disclosed to them only for *bona fide* research or statistical purposes; and

(c) the appropriate Government, making such disclosure is satisfied that the security of the schedules and any information contained therein shall not be impaired.

(3) The published results of any research or statistical project shall not divulge any more information than what the agency authorised for collection of statistics could publish under this Act.

(4) Every agency or person or institutions or universities to whom any individual return or information schedule is disclosed under this section shall comply with directions given by the agency authorised for collection of statistics making the disclosure relating to the schedules and any information contained therein.

12. *Disclosure of historical documents.*— Notwithstanding anything contained in section 9 of this Act, the appropriate Government may release such documents relating to information schedules, which in its opinion have attained historical importance.

13. *Security of recorded information.*— The statistics officer or any person or agency authorised for collection of statistics shall, while copying or recording any statistical information collected pursuant to this Act from individual returns, information schedules, worksheets or any other confidential source by means of cards, tapes, discs, film or any other method, whether using encoded or plain language symbols for processing, storage or reproduction of particulars, take and cause to take such steps as are necessary to ensure that the security provisions of this Act are complied with.

14. *Restrictions on use of information.*— Save as otherwise provided under this Act,—

(a) no information obtained pursuant to this Act and no copy of the information in the possession of any informant shall be disclosed or used as evidence in any proceedings whatsoever; and

(b) no person who has access to any information because of his official position in the collection of any statistics shall be compelled in any proceedings whatsoever to give oral testimony regarding the information or to produce any schedule, document, or record with respect to any information obtained in the course of administering this Act,

except in the manner provided under this Act.

CHAPTER IV

Offences and Penalties

15. *Penalty for neglect or refusal to supply particulars.*— (1) Whoever, fails to produce any books of accounts, vouchers, documents or other business records or whoever neglects or refuses to fill in and supply the particulars required in any information schedule or return given or sent to him or whoever neglects or refuses to answer any question or inquiry addressed to him as may be required under or for the purposes of any provision of this Act and the rules made thereunder, shall be punishable with a fine which may extend to one thousand rupees or, in the case of a company, with a fine which may extend to five thousand rupees.

(2) The conviction of a person or company for an offence shall not relieve him or it of the obligations under sub-section (1) and if after the expiry of fourteen days from the date of conviction, he or it still fails to give the required particulars or continues to neglect or refuses to fill in and supply the particulars or to answer the question or inquiry, then he or it shall be punishable with a further fine which may extend to one thousand rupees or, in the case of a company, with a fine which may extend to five thousand rupees, for each day after the first during which the failure continues.

16. *Penalty for making false statement.*— Whoever, wilfully makes any false or misleading statement or material omission in any information schedule or return filled in or supplied, or in answer to any question asked to him under this Act or the rules made thereunder, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to one thousand rupees or, in the case of a company, with a fine which may extend to five thousand rupees or with both.

17. *Penalty for mutilation or defacement of information schedule.*— Whoever, destroys, defaces, removes, or mutilates any information schedule, form, or other document containing particulars collected under this Act or requesting any such particulars, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company with a fine which may extend to ten thousand rupees or with both.

18. *Penalty for obstruction of employees.*— Whoever, interferes with, hinders, or obstructs any employee in the exercise of any power or duty conferred by this Act, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company with a fine which may extend to ten thousand rupees or with both.

19. *Penalty for other offences.*— Whoever—

(a) acts in contravention of or fails to comply with any provision of this Act or any requirement imposed under this Act; or

(b) wilfully deceives or attempts to deceive any statistics officer or any agency or any employee thereof,

shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a

fine which may extend to ten thousand rupees or with both.

20. *Penalty for failure to carry out duties and functions by employees.*— If any person employed in the execution of any duty or functions under this Act,—

(a) omits without lawful excuse to carry out his duty, or knowingly makes any false declaration, statement or return; or

(b) pretends performance of his duties or obtains or seeks to obtain information which he is not authorised to obtain; or

(c) fails to keep inviolate the secrecy of the information gathered or entered in the information schedules collected pursuant to this Act and, except as permitted under this Act, divulges the contents of any schedule filled in or any information furnished by any informant under this Act,

shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

21. *Penalty for impersonation of employee.*— Whoever, not being authorised to collect statistics under the provisions of this Act, by words, conduct or demeanor pretends that he is authorised to do so, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

22. *General penalty.*— Whoever, commits an offence under this Act for which no penalty is prescribed elsewhere than in this section, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

23. *Offences by companies.*— (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “Director”, in relation to a firm, means a partner in the firm.

24. *Cognizance of offences.*— No court shall take cognizance of any offence under this Act except on a complaint made by the appropriate Government or an officer authorised in this behalf by such appropriate Government or, as the case may be, the statistics officer, and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

25. *Sanction for prosecution for offence.*— No prosecution for an offence committed by any informant shall be instituted except by or with the sanction of the statistics officer, and no prosecution for an offence committed by persons other than informants shall be instituted except by or with the consent of the appropriate Government.

26. *Power of court to try cases summarily.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences 2 of 1974. under this Act shall be tried in a summary way by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that when in the course of, a summary trial under this section it appears to the Magistrate that the nature of the case is such that it is, for any reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

CHAPTER V

Power in Respect of Core Statistics

27. *Power in respect of core statistics.*— Without prejudice to the provisions contained in this Act, the Central Government may, by notification in the Official Gazette, declare from time to time any subject for the collection of statistics of national importance as 'core statistics' and make such arrangement, as it may consider necessary, for regulating the collection and dissemination of statistics on the subject so declared.

CHAPTER VI

Miscellaneous

28. *Power to give directions.*— The Central Government may give directions to any State

Government or Union territory Administration or to any local government that is to say Panchayats or Municipalities, as to the carrying into execution of this Act in the State or Union territory or Panchayats or Municipalities, as the case may be.

29. *Public servants.*— Any statistics officer and any person authorised for the collection of statistics or preparation of official statistics under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860. 45 of 1860.

30. *Bar of jurisdiction.*— No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the appropriate Government or the statistics officer or the agency is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

31. *Protection of action taken in good faith.*— No suit or other legal proceedings shall lie against the appropriate Government or agency or any statistics officer or other officers or employees in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules or directions issued thereunder.

32. *Overriding effect.*— The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force except in relation to the conduct of human population census as per the directions, if any, issued under the Census Act, 1948. 37 of 1948.

33. *Power to make rules.*— (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules under this section for all or any of the following matters, namely:—

(a) principles for coordinating as effectively as possible to achieve the objectives of section 3 including nomination and registration of statistics officers by the Central Government and also to avoid unnecessary duplication in the collection of statistics;

(b) the terms, conditions and safeguards under which any person or agency or company or organisation or association may be engaged by the appropriate Government for the purpose of collection of statistics under sub-section (3) of section 4;

(c) principles for prescribing the form and manner in which the information may be required to be furnished;

(d) principles for prescribing the manner in which the right of access to documents and the right of entry conferred by section 8 may be exercised; and

(e) any other matter which is to be or may be prescribed under this Act.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

34. *Repeal and savings.*— (1) The Collection of Statistics Act, 1953 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

(3) All rules made under the said Act shall continue to be in force and operate till new rules are made under this Act.

Notification

10/1/2009-LA/237

The Agricultural and Processed Food Products Export Development Authority (Amendment) Act, 2009 (Central Act No. 20 of 2009), which has been passed by Parliament and assented to by the President of India on 6-3-2009 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 6-3-2009, is hereby published for general information of the public.

Julio Barbosa Noronha, Under Secretary (Law).

Porvorim, 16th July, 2009.

THE AGRICULTURAL AND PROCESSED FOOD PRODUCTS EXPORT DEVELOPMENT AUTHORITY (AMENDMENT) ACT, 2009

AN

ACT

to amend the Agricultural and Processed Food Products Export Development Authority Act, 1985.

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Agricultural and Processed Food Products Export Development Authority (Amendment) Act, 2009.

(2) It shall be deemed to have come into force on the 13th October, 2008.

2. *Amendment of section 2.*— In the Agricultural and Processed Food Products Export Development Authority Act, 1985 (hereinafter 2 of 1986. referred to as the principal Act), in section 2,—

(a) in clause (g), for the words “Scheduled products”, the words “Scheduled products or, as the case may be, Special products” shall be substituted;

(b) in clause (i), for the words “the Schedule”, the words “the First Schedule” shall be substituted;

(c) after clause (i), the following clause shall be inserted, namely:—

‘(j) “Special product” means any of the agricultural or processed food products included in the Second Schedule.’.

3. *Substitution of new section for section 3.*— For section 3 of the principal Act, the following section shall be substituted, namely:—

“3. *Power to amend the Schedule.*— The Central Government may, having regard to the objects to this Act, and if it considers necessary or expedient so to do, by notification in the Official Gazette, add to, or, as the case may be, omit from, the First Schedule or the Second Schedule any agricultural or processed food product and on such addition, or as the case may be, omission, such product shall be, or shall cease to be, a Scheduled product or Special product as the case may be.”.

4. *Amendment of section 4.*— In section 4 of the principal Act, in sub-section (4), in clause

(h), for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(iii) other Scheduled products or Special products industries;”.

5. *Insertion of new section 10A.*— After section 10 of the principal Act, the following section shall be inserted, namely:—

‘10A. *Functions in respect of Special products, etc.*— Without prejudice to any law for the time being in force, it shall be the duty of the Authority to undertake, by such measures as may be prescribed by the Central Government for registration and protection of the Intellectual Property rights in respect of Special products in India or outside India.

Explanation.— For the purpose of this section “Intellectual Property” means any right to intangible property, namely, trade marks, designs, patents, geographical indications or any other similar intangible property, under any law for the time being in force.’.

6. *Amendment of section 32.*— In section 32 of the principal Act, in sub-section (2), after clause (h), the following clause shall be inserted, namely:—

“(ha) the measures for registration and protection of the Intellectual Property rights under section 10A;”.

7. *Insertion of new section 35.*— After section 34 of the principal Act, the following section shall be inserted, namely:—

“35. *Validation.*— All things done, or, omitted to be done, and all actions or measures taken, or, not taken, during the period beginning on or after the 13th day of October, 2008 and ending immediately before the date of commencement of the Agricultural and Processed Food Products Export Development Authority (Amendment) Act, 2009, shall, in so far as

they are in conformity with the provisions of this Act, as amended by the Agricultural and Processed Food Products Export Development Authority (Amendment) Act, 2009, be deemed to have been done, or, omitted to be done, or, taken, or, not taken, under the provisions of this Act, as amended by the Agricultural and Processed Food Products Export Development Authority (Amendment) Act, 2009, as if such provisions were in force at the time such things were done or omitted to be done and actions or measures taken or not taken during the said period.”.

8. *Amendment of the Schedule.*— The Schedule to the principal Act shall be numbered as the First Schedule and after the First Schedule as so numbered, the following Schedule shall be inserted, namely:—

“THE SECOND SCHEDULE

[See section 2(j)]

Basmati rice.”.



Department of Women & Child
Development

Directorate of Women & Child Development

Notification

2-98-2008/DW&CD/ICDS(2)/889

1. *Name of Scheme.*— The scheme may be called as Retirement Benefit Scheme for Anganwadi Workers/Anganwadi Helpers who are honorary workers under the I.C.D.S. Scheme.

2. *Commencement.*— It shall come into force from date of publication in the Official Gazette.

3. *Objectives.*— The objective of the Scheme is to determine retirement age and to provide lumpsum financial assistance on such retirement in order to help and enable the

AWW/AWH to take care of their requirement after the retirement.

4. *Implementation.*— The Scheme shall be implemented by The Department of Women & Child Development.

5. *Definition.*— (a) “I.C.D.S.”, means the centrally sponsored scheme called Integrated Child Development Services Scheme.

(b) “Member”, means Anganwadi Workers/Helpers engaged and working under the ICDS Scheme.

(c) “CDPO”, means the Child Development Project Officer of the respective block under the ICDS Scheme.

(d) “Department” means Directorate of Women and Child Development.

(e) “Director”, means the Director of Women and Child Development, Government of Goa.

6. All the AWWs & AWHs under ICDS Scheme shall be eligible to be the members of the Scheme.

7. *Age of retirement.*— From the date of Notification of the Scheme the age of retirement of the AWWs & AWHs shall stand to be 60 years. The AWWs & AWHs who have completed the age of 60 years shall retire on the date of commencement of the Scheme. Those AWWs & AWHs who attain the age of retirement thereafter shall stand retired on the last day of the month in which they attain the age of 60 years.

8. The Financial assistance under the Scheme shall be as under:—

The AWWs & AWHs who have attained the age of 60 years shall be paid an amount of Rs. 1.00 lakh (Rs. One lakh only) and Rs. 50,000/- (Rs. Fifty thousand only) respectively under this Scheme.

9. In case any member resigns before the date of retirement, such member shall not be

eligible for benefits under this scheme. However if any member opts for compulsory retirement due to health/medical ground such member shall be paid on pro rata basis depending upon the number of years of service.

10. To become eligible for Retirement Benefit under the Scheme AWW/AWH should have completed minimum 20 years of service as honorary worker in the ICDS.

11. Additional benefits under the Scheme:—

CDPO shall deduct an amount of Rs. 200/- (Rs. Two hundred only) from the monthly honoraria payable to each AWW & AWH covered under Scheme to be invested either in Postal Recurring Deposit or any other way as may be approved by Director so as to derive additional benefits to be payable to members on their retirement.

12. In case any of the members does not receive honoraria on account of absenteeism from duties or for any other reason during a particular month, the contribution shall be recovered from the honoraria payable for subsequent month.

13. In case of exit of any member from the service under ICDS before the age of 60 years due to **resignation** etc., the above **contribution** accumulated will be paid to her

with interest applicable from time to time. In case of death of a member in service, such accumulated amount will be paid to her nominee.

14. CDPO shall notify to the Director all details in respect of the AWW & AWH immediately before one month of the date of retirement. The Department shall settle the claim of the retired member as per the Scheme on or before the date of actual retirement through the CDPO.

15. CDPO shall provide necessary particulars of the new entrant member to the Director alongwith details of age, nominee etc.

16. CDPO shall keep up to date record at their level on the aforesaid Scheme & send monthly report to the Director of the retiring members.

17. Government shall have power to undertake amendment or modification to the Scheme.

By order and in the name of the Governor of Goa.

Sanjiv M. Gadkar, Director of Women & Child Development ex officio Joint Secretary (W&CD).

Panaji, 28th July, 2009.